JOHN LOCKE AND THE DOCTRINE OF MAJORITY-RULE

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The proposition that there resides in the majority a certain virtue which, outweighing all the claims of moral or intellectual superiority, gives it a right to make final decisions regarding the welfare of the state, has attracted the attention of writers on politics ever since Plato and Aristotle. It was not, however, until the late seventeenth century (after 1688, and, if not the birth, at least the conception of the first of the great modern democracies) that it came into its own. It came into its own, as political problems almost always do, after it had been posed more or less clearly in practice; for, clearly, one of the issues raised by the events of 1688 was that of the claims of a majority of an established community to name the conditions on which they are willing to participate in a common social adventure with a minority who conceive that adventure in terms different from their own. Locke, whose major work on politics[1] was published immediately following those events, perhaps states that issue more sharply than the leaders of the Glorious Revolution would have done; but undoubtedly he wrote with them in mind, and believed himself to be putting into words the principles on which they had acted. We may, however, readily concede that History waited until 1789 (when a revolution occurred whose leaders wasted no words upon talk of ancient agreements) to present the problem of majority-rule as unambiguously as Locke had stated it. "La loi," the leaders of the French majority wrote solemnly into their constitution, "est la volonté générale, exprimée par la majorité ou des citoyens ou de leurs représentants." A recent writer has, not unfairly, summarized their position as follows:

"Nous, l'immense majorité, nous avons le droit de faire la loi à vous, l'infime minorité."[2]

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1. *Essay concerning the True Original, Extent and End of Civil Government* (reprinted in *Of Civil Government* [edited by William S. Carpenter, London: J. M. Dent & Sons, 1936], pp. 117 ff.). In citing this work, we give only the chapter and section numbers.

2. Nicolas Saripolos, *La démocratie et l'élection proportionnelle* (Paris: Arthur Rousseau, 1899), p. 220.

With the publication of Burke's *Reflections,* the issue was fairly joined in political theory between the supporters of that position and its opponents; and there is a sense in which it has been the central problem of all subsequent political theory, a sense in which even those theorists who have sought to avoid it can be said to have written to it, committing themselves, in the course of their argument, to principles which stamp them as either friendly or unfriendly to the claims of popular majorities to power in the state. But there is another sense in which (borrowing a phrase from the contemporary literature of county government) the debate about majority-rule is the "dark continent" of modern political theory. Theorists have, on the whole, preferred to attack the problem of majority-rule at its periphery rather than at its center; and the historians of the political ideas of our forbears have ordinarily felt little or no responsibility for making clear the implications of their thought with regard to the ultimate choice between majority- and minority-rule. It is not, then, altogether surprising that while such expressions as "principle of majority-rule," "majority principle," "loi de la majorité," *etc.,* are familiar enough to professional students of politics, these expressions have been made to stand indiscriminately for the *rule* by which decision-making groups (of all kinds) are committed to decisions by majority-vote, the *theory* according to which political power should be vested in the majority of the "people," and the *form of government* which defenders of that theory would like to see adopted wherever it does not yet exist, and continued wherever it does exist. Of these three things it is the second, the *theory* according to which political power should be vested in the majority of the adult population of the *state,* with which we are here concerned; and it is this theory which we call the "doctrine of majority-rule." The notion of decisions by majority-vote in organizations which are not states, or of decisions by majority-vote in states with limited electorates, must be sharply distinguished from that involved in the doctrine of majority-rule as here defined. When the majority-rule democrat (the defender of the doctrine of majority-rule) says, as he is fond of saying, that the majority of the people ought to have their way, he is not merely putting in a good word for the rule which provides for decisions by majority-vote. He means that, at the limit, one half of the people minus one ought to accomodate themselves to the wishes of one half of the people

plus one; and since one half of the people plus one together with one half of the people minus one constitute the whole people, he may be seen to have committed himself also to the notion of an *inclusive electorate.* Since, again, as any thoughtful student of modern history knows, there is no way to make sure that one half of the people plus one will have their way without (a) conducting polls with a view to discovering their wishes, and (b) conducting such polls often enough to lay bare changes in the composition (thus in the wishes) of the majority as they occur, he may be seen to have committed himself also to the *principle of popular consultation.* And, finally, since the majority of the people cannot have their way as a matter of course where decision-making powers have been withdrawn from the whole people, he may be seen to have committed himself to the *principle of popular sovereignty.*

In order to defend the doctrine of majority-rule successfully, that is to say, one must establish (along with the case for decisions by majority-vote) the case for universal and (formally) equal suffrage, that for popular sovereignty, and that for (at least some machinery of) popular consultation (*i.e.* lodgment in the people of the power to determine the scope of its own powers). For, taken together, these three principles constitute the context in which he proposes to apply the notion of decisions by majority-vote, and all three are logically involved in the theory that the majority of the people ought to have their way.

The fact that modern writers on political theory usually advert to John Locke as an example of extreme individualism in politics seems to indicate that, instead of reading carefully what he had to say, they have depended upon inadequate summaries of his doctrine. A careful examination of the *Essay concerning the True Original, Extent and End of Civil Government* shows that his solution of the paramount questions of politics agrees at every point except one with that which we have defined above as the doctrine of majority-rule.

The notion of "inalienable rights," so often ascribed to Locke, is really incompatible with his position, for not even in the "state of nature," which he employs as an expository device, does he consider the individual in any light other than that of relationship to other men, and he accordingly holds that rights are merely the converse of duties. Rights whose exercise depends on the performance of corresponding duties are clearly not inalienable, and Locke applies this conception even in his

treatment of the crucial question of property, regarding the right to possess as the reciprocal of a duty to enrich mankind.[3] The collectivistic implications of this interpretation of property-rights show how fundamentally *social* was Locke's whole theory of political rights; even in the state of nature Locke's individual was, so to speak, a community-member bound by a complex of rights and duties enjoined by the law of nature.

In his exposition of the law of nature, from which he deduces his theory of social obligations, Locke permitted himself to become involved in certain ambiguities, so that we may identify in his thought at least six not entirely reconcilable theses regarding the character and content of that law. After asserting that (1) the law of nature commands the preservation of each man, he also declares that (2) the law of nature wills the preservation of all mankind. It is obvious that in many situations the two principles must conflict, as when the preservation of a society (which Locke, by another equivocation, treats as the ethical equivalent of mankind) necessitates the sacrifice of an individual; but Locke does not resolve the dilemma, sometimes implying that the first takes precedence, enjoining a man to act for the preservation of mankind only "when his own preservation comes not in competition,"[4] and sometimes assuming that the second is supreme and that punishment may condignly be visited upon those who trespass against the "peace and safety" of their fellows.[5] Locke, again, although he does not attempt to codify the law of nature, maintains that (3) it is a body of *immutable* rules regarding whose content no two rational men could disagree; but despite his insistence that "the obligations of the law of Nature cease not in society,"[6] he also assumes that (4) it is a law of changing content modified by the conditions under which it is to be applied.[7]

In direct conflict with all four of the foregoing propositions is Locke's basic doctrine that (5) the law of nature, in its application to any aggregate of persons, may with final and binding force be amended by explicit or tacit agreement among these persons. If the "keeping of

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3. See particularly *Essay*, v. 31-32, 34, 37. Cf. v. 30: "The same law of Nature that does by this means give us property, does also bound that property too . . . As much as anyone can make use of to any advantage before it spoils, so much he may by his labour fix a property in. Whatever is beyond this is more than his share, and belongs to others."

4. ii.6. 5. ii.8. 6. ix.135.

7. *E.g.* the populousness and wealth of a nation affect property-rights (v.34).

faith belongs to men as men"[8] and *pacta sunt servanda,* men may enter into contracts which can, in the event, be fulfilled only by sacrifice of the covenanter's life, in violation of the first thesis, or by action inimical to the interests of mankind, in contravention of the second thesis; and if the law of nature may be amended by contract, it can be neither immutable, as the third thesis affirmed, nor (if the contract *must* be fulfilled) adaptable to circumstances. This fifth thesis raises what is, of course, one of the most perplexing of ethical problems, but one which Locke seems not to have envisaged, for he betrays no awareness of the conflict to which we have alluded. The fifth thesis produces also a difficulty of particular moment in politics, since Locke, although he expressly provides that a man cannot by contract place himself in absolute subjection to the will of another,[9] believes that a man not only can, but in a commonwealth must, by contract subject his life and liberty to the law of the society——a law which, at the limit, is merely the command of certain *persons.* This difficulty is not minimized by Locke's thesis that (6) the law of nature commands each man to act in accordance with the dictates of his own reason, so that ultimately the "body of the people, or *any single man* . . . have a liberty to appeal to Heaven [*i.e.* resort to force] whenever *they* judge the cause of sufficient moment."[10] If a man has a right to make this appeal, it follows that he is rightfully obligated only to do that to which he at the time consents, and the position becomes, at its term, unavoidably anarchistic. As we should expect, Locke's formulation of ultimately irreconcilable theses regarding the law of nature produces on occasion logical difficulties in his theory of political obligation, although the main outlines of his doctrine are sufficiently clear.

Having deduced natural law from the state of nature, Locke employs another expository device, the social contract, to show what obligations are incumbent on the members of a commonwealth formed to obviate the "inconveniencies" of the state of nature by providing explicit laws, an impartial judge to decide disputes, and machinery for enforcing his decisions. The individuals who thus covenant to place themselves under a common superior, the commonwealth, must have reached a clear understanding concerning the purposes and scope of that superior's powers, the obedience they are to give to its behests, and the way in which

8. ii. 14. 9. iv. 22.
10. xiv. 168. (emphasis added).

laws are to be made——*i.e.* an understanding concerning the extent and the exercise of the sovereignty of the society.

Although it is generally assumed that the concept of "absolute, unlimited, and uncontrollable sovereignty"[11] was repugnant to Locke's thought, so that he perforce constructed a "non-sovereign state,"[12] a reading of the *Essay* suffices to show that, whatever the limitations set to the power of the legislature, he granted to the people of his society a sovereignty as absolute as any that can be found in the range of political theory. Political power, which is "a right of making laws, with penalties of death, and consequently all less penalties," must, he indeed stipulates, be used only for the public good (which he nowhere clearly defines[13]), but he provides no limitations—constitutional, natural, or other—on the exercise of that power for the public good. He furthermore makes the people absolute judges of what constitutes the public good, so that they may, without reference to any criteria other than their own will, "set up a new legislative whenever they take offence at the old one,"[14] and thus procure the enactment of such laws as please them. Thus Locke, as he himself freely concedes, laid "the foundation of government in the . . . opinion and . . . humour of the people."[15] It is true that he, living in an age which had no experience of despotic majorities, was little concerned to delimit society's power over the individual; but there is here no occasion to employ the argument *ex silentio,* for he unequivocally defines that power as unlimited when he says that each person "has given up a right to the commonwealth to employ his force for the execution of the judgments of the commonwealth."[16] And since the society is empowered to act for its own safety "by cutting off those

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11. William Archibald Dunning, *A History of Political Theories from Luther to Montesquieu* (New York: The Macmillan Co., 1905), pp. 349-350.

12. Harold J. Laski, *The Rise of Liberalism* (New York: Harper & Brothers, 1936), p. 127.

13. Unlike Rousseau, he seems not to have seen that the "public good" must be predicated on a wide community of interests among the individual members of the society; he sometimes speaks as though such a community of interests did exist, and at other times as though it did not. Locke thus loses an opportunity to argue that in some contexts an individual's interests are the same as those of the society, so that protection of the latter could be justified under his first thesis regarding the law of nature.

14. xix. 223. 15. *Ibid.*

16. vii. 88. The individual's property is, of course, likewise subject to the will of the society, for when a man "incorporates himself into any commonwealth, he . . . annexes also, and submits to the community those possessions which he has, or shall acquire . . . " (viii. 120).

parts . . . which are so corrupt that they threaten the sound and healthy,"[17] and is presumably the only judge of health and corruption, it is clear that Locke provides no means for preventing a majority from behaving in the most arbitrary and despotic fashion.

Locke's doctrine of absolute sovereignty is not, of course, without attendant difficulties. It would seem, for example, that the individual who enters such a commonwealth does, in fact, subject himself to the absolute authority of others—a thing which, on Locke's premises regarding the law of nature, he has no right to do—and furthermore, unless it can be shown (as Locke fails to do) that, in any dispute between the individual and the majority, the latter will act as an impartial judge in its own case, it would appear that the cardinal purpose of the social compact may remain unfulfilled. Locke probably involved himself in this dilemma by failing to apprehend the *generic* difference between decisions made unanimously, which indeed obligate individuals by their own consent, and decisions made by majorities.

Locke is the author of one of the most concise statements of the faith of majority rule democrats: "When any number of men have . . . consented to make one community or government . . . the majority have a right to act and conclude the rest."[18] Since the majority's right is presumably an ethical one, this implies that decisions made by exercise of it are ethically right, but Locke provides us with no systematic proof of this proposition. He does assert, without proof, that all men have a natural right to live under such government "as the majority should approve and freely acquiesce in,"[19] and he also declares that a commonwealth's title to govern is valid only in a context of majority-rule;[20] but he does not elaborate the crucial premise upon which, if pressed, he would have been obliged to defend these propositions. His thesis that communities in which the minority refuses to be concluded by the majority must disintegrate[21] is, in the form in which he states it, so obviously belied by history that it requires no comment. Of greater moment is the argument by analogy: all bodies must move in the direction in which they are impelled by the greater force, and in political bodies the greater force is the will of the majority.[22] Even granting both the propriety

17. xv. 171.
18. vii. 95.
19. xvi. 176.
20. viii. 99.
21. vii. 98.
22. viii. 96.

of the analogy and the validity of the implied identification of the right with the natural, it may be seen that this argument depends on two hidden premises (that all individuals participate equally in making decisions, and that all have equal intensity of conviction on each issue), so that it is applicable only in certain special situations and not, as Locke seems to have supposed, universally. More cogent is an argument which Locke nowhere clearly formulates, but which seems to have underlain some of his pronouncements, namely, that right is derived from the consent of the individual, whence it follows that the majority, which has on its side the greater number of consents, may be presumed to have the greater right.

To claim power for the majority of the individual members of the society is, *ceteris paribus,* to declare the individuals concerned political equals, since each has, before the decision is made, an equal capacity to affect that decision. Locke may therefore be said to have committed himself to the doctrine of political (*not* economic or social) equality, but, like most of the majority-rule democrats of our own day, he apparently did not see the necessity for the qualification *ceteris paribus* to provide for such situations as that in which a cohesive or "crystallized" majority, composed of individuals who, for various reasons, vote together on all issues, destroys political equality, since it has the power to impose on the minority, which is really unable to affect the decision on any issue, complete political subjugation.[23] Locke did not envisage, it would seem, the possibility of such a situation, nor did he perceive that, since it cannot be shown that all men have equal perception of, and devotion to, the public good, the political equality which he by implication attributes to all members of the commonwealth can be reconciled with his doctrine of the public good *only* by positing that the public good *by definition* ceases to be good when efforts to promote it are not made on an egalitarian basis.[24]

Locke's answer to the basic questions of politics fails in only one essential point to agree with that given by the majority-rule democrats: he virtually ignores the necessity for political machinery by which the popular will may express itself in the periods that intervene between

23. If the organized majority applies the majority principle in its own ranks, the result may be servitude for the *majority* of the members of the whole society.

24. It may be that Marx, alone among the theorists of majority-rule, clearly recognized the necessity for such a definition of the public good.

revolutions. Even his "right of revolution," *i.e.* the people's right to exercise its "supreme power to remove or alter the legislative,"[25] is involved in ambiguity, for it is possible to interpret his pronouncements in two quite different ways. It may plausibly be argued that Locke intended this right to be exercised only when a government violates the mandate which it received from the majority which set it up;[26] on the other hand Locke's doctrine on this point may be interpreted in a fashion more compatible with his other views, and he may be said to intend the right to be exercised whenever an existing majority finds that the legislative does not execute its will. This presupposes, however, that there will be at all moments a majority-will, that the majority always stands ready to enforce its volition by revolt if necessary, and that revolutionary movements enjoying majority support must always succeed. All three of these presuppositions call for acts of faith of which few students of the history of democratic government will find themselves capable, wherefore Locke's failure to provide for some form of popular consultation must be accounted a fatal weakness in his theory.

We have seen that in his exposition of his theory Locke implicated himself in various logical difficulties, so that at many points a critic may bring against him charges of inconsistency and ambiguity. Did Locke really mean that the majority has a right to oppress minorities? Did he commit himself to a moral relativism as complete as that of a Thrasymachus, and believe that majorities (a kind of force) *make* right? To answer such questions in the affirmative is to ignore the spirit of the entire *Essay*.

While the proposition, that right is that which the majority wills, involves a moral relativism that is absent from the proposition, that the majority always wills that which is right, the two come to the same thing when considered as first principles of politics, since it follows from each that a good political system is one which lodges ultimate power in the hands of the majority. The second proposition (as also the first when advanced as a corollary of the second) depends on a generalization

25. xiii. 149.

26. Locke does apparently go so far as to give a majority the right to conclude future majorities by determining the form of government (x. 132). This is, however, clearly at variance with his own doctrines of sovereignty and majority-right; furthermore, since the rights of a majority, like other rights, are the concomitants of corresponding duties, the majority cannot have a right to abdicate.

concerning the incidence of wisdom and justice among men, and it seems probable that this generalization is the latent premise in Locke's thought——a premise which he never mentions,[27] but which must be assumed to have underlain his reasoning if many passages in his work are not to be pronounced unintelligible and the whole is not to be dismissed as a tissue of logical inconsistencies and ethical ambiguities. With this latent premise in his mind, however, he can reasonably argue (*e.g.*) both for individual rights and for an absolute right in the majority to determine the rights of individuals, for the kind of majority he envisages would never withdraw the just rights of individuals. Likewise he can permit the individual to promise unqualified obedience to the will of the majority, for that will, being always in accord with reason and justice, cannot enslave. In short, when this premise that a majority of men are rational and just is attributed to him, Locke's doctrine of majority-rule becomes a series of identical propositions, and the principal weakness of his demonstration lies in his failure to illuminate the central and crucial issue.

27. Sometimes, indeed, he makes pronouncements which imply the contrary (ix. 123, 125).

VITA

The author of the present study was born at Konawa, Oklahoma, on March 5, 1909. He passed his boyhood in a long succession of Methodist parsonages in that state, attending grammar schools in various villages and towns. In the Spring of 1922 he was graduated from the high school at Mangum, Oklahoma, and in the Autumn of that year he was admitted, by special action of the Board of Trustees, to the College of Arts and Sciences of Northwestern University. His career as an undergraduate student was terminated in February, 1927, at the University of Oklahoma, which conferred on him the A. B. degree. In August, 1928, he received the M. A. degree from Northwestern, contributing as a thesis a critical study of the Spanish novelist and short-story writer, Pío Baroja y Nessi. In September, 1930, after a disastrous sally into what academic folk call the world of business and business folk call the world of practical affairs, he was matriculated in the Graduate School of the University of Illinois, where for the next two years he studied in the Departments of Romance Languages and Philosophy. During the same two years, as an Assistant in Romance Languages, he taught courses in the Spanish language——an activity at which, in all probability, he would still be engaged but for the happy accident of his election, in December, 1931, to a Cecil Rhodes scholarship.

At Oxford he read the Honours School of Philosophy, Politics, and Economics, receiving the B. A. degree in July, 1935. He passed the following year in Madrid, Spain, as a representative of United Press——a post which he abandoned in the Summer of 1936 in order to accept an assistantship in the Department of Political Science at the University of Illinois. A year later he was appointed to an instructorship in the School of Government and Public Affairs at the Louisiana State University in Baton Rouge, where he taught through the years 1937-1940.

In the Summer of 1938, having continued among the quick through the period beyond the baccalaureate prescribed by the statutes of that university, he received the M. A. degree from Oxford.

In May, 1940, he was appointed to the faculty of Hobart College, at Geneva, New York, with the rank of Assistant Professor of Political Science.

He has published two modest articles—on the problem treated in the present study—in the *Southern Review*.